

Retailers that purchase telecommunications units from telephone service providers and sell them at retail to their customers present situations similar to hotels who sell telecommunications services. See 86 Ill. Adm. Code 495.100. (This is a GIL).

October 20, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated August 20, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

The taxation of prepaid calling cards is very different in each state. Usually they are subject to either sales tax (tangible personal property) or usage-based tax (a service). Sometimes, however, they are not taxed at all. After speaking with several of your representatives in taxpayer assistance, I was unable to come to a conclusion regarding how or whether prepaid calling cards are taxed in Illinois.

For auditing purposes, we are requesting that you send us a ruling letter and/or appropriate legislation regarding taxation of prepaid phone cards. We are anxious to pay the taxes we may owe and eagerly await your response. Thank you for your time.

Sales of prepaid telephone cards by retailers are not subject to Retailers' Occupation Tax. However the Telecommunications Excise Tax consequences from sales of telephone cards by retailers may vary depending upon whether or not the Department deems them to be retailers of telecommunications.

In general, retailers who purchase telephone cards from telephone service providers and then resell the cards to customers for marked-up prices are not responsible for collecting and remitting the tax from their customers. The tax is incurred at the time the telecommunications originate or are received in a taxable manner. The amount of telecommunications charges for which the cards are redeemed by the telephone service providers should include any amount of Telecommunications Excise Tax incurred. The telephone service providers charge the phone calls and the tax against the balance of the cards, as they are responsible for collecting and remitting the tax.

In contrast, retailers that purchase telecommunications units from telephone service providers and sell them at retail to their customers present situations similar to hotels who sell telecommunications services. See Section 495.100. In these cases, the retailers would be required to register as telecommunications retailers and collect and remit Telecommunications Excise Tax. The tax base would be the amounts charged to card purchasers for the taxable services subsequently provided (i.e., calls that originate or terminate in Illinois). When the cards are sold in Illinois, the Department presumes that the calls will originate or terminate in this State. Retailers purchasing telecommunications units have the burden of establishing that the charges are exempt from Telecommunications Excise Tax. The only way to properly document such exemptions would be through records of the telephone service providers. Therefore, as a practical matter, since the retailers will not know at the time of sale what taxable services cardholders will later consume, retailers should charge the tax on the full sales prices of the cards.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.